

REMARKS

Claims 1-9, 22-34 and 39-42 remain pending. Claim 23 has been amended to correct a typographical error. New claims 43-45 have been added. Support for new claim 43 can be found in claim 11 of the U.S. parent application (09/204,067). Support for new claim 44 can be found in claim 15 of the U.S. parent application application. Support for new claim 45 can be found at page 2, paragraph 24 and Fig. 4a of the U.S. parent application.

Objection to the Specification

The Examiner has noted that the specification lacks a claim to the priority of the U.S. parent case and to the preceding foreign application. Applicants have hereinabove amended the specification to include a priority claim to the parent applications.

35 U.S.C. § 103**Claims 1-6, 9, 22-27, 39 and 41**

The Examiner has rejected claims 1-6, 9, 22-27, 39 and 41 as obvious over U.S. Patent No. 5,647,851 (“Pokras”) in view of U.S. Patent No. 5,686,060 (“Schneider”), in part because Pokras allegedly describes subjecting the suspension in the syringe to an alternated rotation or rocking motion. Applicants respectfully traverse the § 103 rejection.

Exemplary independent claim 1 reads as follows:

A method of administering to patients by injection or infusion a suspension of microparticles homogeneously distributed in an aqueous liquid carrier by means of an injector system comprising a syringe containing said suspension and a power driven piston for injecting said suspension into a patient, said method comprising: *subjecting the suspension in the syringe to a rotation or rocking motion*, thereby maintaining said suspension homogeneous by preventing segregation of the microparticles by gravity or buoyancy, and without damaging said particles or disturbing said distribution.

(emphasis added).

Applicants respectfully point out that Pokras in combination with Schneider does not disclose, teach or suggest any means for “subjecting the suspension in the syringe to a *rotation or rocking motion*.” (emphasis added). Instead, Pokras merely describes the transmission of *vibration* from the motor to the syringe. Indeed, Pokras describes the continuous or intermittent rotation of the motor 28, not the syringe, stating that vibration “is then transmitted to the barrel of the syringe” causing the needle to vibrate. Pokras at col. 8, lines 51-53. Furthermore, Schneider fails cure this defect in Pokras, being merely directed to phospholipids stabilized suspensions of gas-filled microbubbles. Schneider at col. 1, lns. 10-17, col. 5 lns. 14-37). Therefore, applicants respectfully maintain that Pokras is not suitable for imparting any rotating or rocking motion to the suspension contained in the syringe.

As further support for applicants’ above position, applicants submit the declaration of L. Jakob, one of the named inventors, which was submitted during prosecution of the parent case (now U.S. Patent No. 6,726,650). The declaration refers to comparative experiments concerning the device of Pokras which prove that the device of Pokras is not capable of avoiding segregation of microbubbles and which shows that the device of Pokras utilizes vibration of the syringe, which vibration is generated by motor 28. (e.g. Jakob Decl. at ¶¶ 6-8).

Thus, applicants respectfully maintain that independent claims 1, 39 and 41 are not rendered obvious by the combination of Pokras and Schneider. Currently pending claims 2-9, 22-33 and 43-45 depend directly or indirectly from claim 1, currently pending claim 40 depends directly from claim 39 and currently pending claim 42 depends directly from claim 41, and are thus not rendered obvious by the combination of Pokras and Schneider for the same reasons.

Claims 28-32

The Examiner has rejected claims 28-32 as obvious over Pokras in view of Schneider and in further view of U.S. Patent No. 6,028,066 (“Unger ‘066”). Applicants respectfully traverse the § 103 rejection.

For the above mentioned reasons, and further because Unger ‘066 does not cure the above described deficiency of Pokras and Schaefer, applicants respectfully maintain that claims 28-32 are not obvious over Pokras in view of Schneider and in further view of Unger ‘066.

Claim 33

The Examiner has rejected claim 33 as obvious over Pokras in view of Schneider and Unger ‘066 and in further view of U.S. Patent 5,334,381 (“Unger ‘381”).

For the above mentioned reasons, and further because Unger ‘066 and ‘381 do not cure the above described deficiency of Pokras and Schaefer, applicants respectfully maintain that claim 33 is not obvious over Pokras in view of Schneider and Unger ‘066 and in further view Unger ‘381.

Claim 34

The Examiner has rejected claim 33 as obvious over Pokras in view of Schneider and Unger ‘066 and in further view of U.S. Patent 5,415,867 (“Minchey”).

For the above mentioned reasons, and further because Unger ‘066 and Minchey do not cure the above described deficiency of Pokras and Schaefer, applicants respectfully maintain that claim 34 is not obvious over Pokras in view of Schneider and Unger ‘066 and in further view of Minchey.

Claims 40 and 42

The Examiner has rejected claims 40 and 42 as obvious over Pokras in view of Schneider in further view of Unger '381.

For the above mentioned reasons, and further because Unger '381 does not cure the above described deficiency of Pokras and Schneider, applicants respectfully maintain that claims 40 and 42 are not obvious over Pokras in view of Schneider and in further view of Unger '381.

Accordingly, applicants respectfully request that the § 103 rejections of claims 1-6, 9, 22-34 and 39-42 be withdrawn.

CONCLUSION

Therefore, for the above reasons, applicants maintain that they have addressed all outstanding rejections and objections ¹to presently pending claims 1-9 22-34 and 39-45. Prompt allowance of the same is respectfully requested. In the event a telephone interview would aid in the examination of this application, the Examiner is requested to contact the undersigned.

¹ Applicants note that the Examiner has stated that dependent claims 7-8 would be allowable if rewritten in independent form, because they depend from a rejected base claim. Applicants have addressed the rejection of all pending independent claims herein.

No fees are believed due in connection with the filing of this *Amendment and Response* to the June 8, 2006 Office Action. However, the Director is hereby authorized to charge any required fees and credit any overpayments to Deposit Account No. 50-0540.

Respectfully submitted,

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/Henry J. Cittone/
Donald Rhoads, Reg. No. 34,705
Henry J. Cittone, Reg. No. 57,206
Attorney for Applicants
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
(212) 715-9100 (phone)
(212) 715-8000 (fax)